



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R04-OAR-2015-0298; FRL-9935-59-Region 4]

Air Plan Approval and Air Quality Designation; SC;

Redesignation of the Charlotte-Rock Hill 2008 8-Hour Ozone

Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On April 17, 2015, the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC), submitted a request for the Environmental Protection Agency (EPA) to redesignate the South Carolina portion of the bi-state Charlotte-Rock Hill, North Carolina-South Carolina 2008 8-hour ozone nonattainment area (the entire area is hereinafter referred to as the “bi-State Charlotte Area” or “Area” and the South Carolina portion is hereinafter referred to as the “York County Area”) to attainment for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) and to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the York County Area. EPA is proposing to determine that the bi-State Charlotte Area is continuing to attain the 2008 8-hour ozone NAAQS; to approve the State’s plan for maintaining attainment of the 2008 8-hour ozone standard in the Area, including the motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_x) and volatile organic compounds (VOC) for the years 2014 and 2026 for the York

County Area, into the SIP; and to redesignate the York County Area to attainment for the 2008 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA's adequacy determination for the MVEBs for the York County Area.

DATES: Comments must be received on or before [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2015-0298, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: R4-ARMS@epa.gov.
3. Fax: (404) 562-9019.
4. Mail: "EPA-R04-OAR-2015-0298," Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
5. Hand Delivery or Courier: Ms. Lynorae Benjamin, Chief, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R04-OAR-2015-0298. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information may not be publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted

material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mrs. Sheckler may be reached by phone at (404) 562-9222, or via electronic mail at sheckler.kelly@epa.gov.

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I. What are the Actions EPA is Proposing to Take?

EPA is proposing to take the following three separate but related actions, one of which involves multiple elements: (1) to determine that the bi-state Charlotte Area is continuing to attain the 2008 8-hour ozone NAAQS;¹ (2) to approve South Carolina’s plan for maintaining the 2008 8-hour ozone NAAQS (maintenance plan), including the associated MVEBs for the York County Area, into the South Carolina SIP; and (3) to redesignate the York County Area to attainment for the 2008 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA’s adequacy determination for the MVEBs for the York County Area. The bi-state Charlotte Area consists of Mecklenburg County in its entirety and portions of Cabarrus, Gaston, Iredell, Lincoln, Rowan and Union Counties, North Carolina; and a portion of York County, South Carolina. On April 16, 2015, the State of North Carolina provided a redesignation request and maintenance plan for its portion of the bi-state Charlotte Area. EPA approved North Carolina’s redesignation request and maintenance plan in a separate action. *See* 80 FR 44873 (July 28,

¹ In an action published on July 28, 2015, EPA determined that the bi-state Charlotte Area was attaining the 2008 8-hour ozone standard when the Agency redesignated the North Carolina portion of this Area. *See* 80 FR 44873.

2015). Today's proposed actions are summarized below and described in greater detail throughout this notice of proposed rulemaking.

EPA is making the preliminary determination that the bi-state Charlotte Area is continuing to attain the 2008 8-hour ozone NAAQS based on recent air quality data and proposing to approve South Carolina's maintenance plan for its portion of the bi-state Charlotte Area as meeting the requirements of section 175A (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to keep the bi-state Charlotte Area in attainment of the 2008 8-hour ozone NAAQS through 2026. The maintenance plan includes 2014 and 2026 MVEBs for NO_x and VOC for the York County Area for transportation conformity purposes. EPA is proposing to approve these MVEBs and incorporate them into the South Carolina SIP.

EPA also proposes to determine that the South Carolina portion of the bi-state Charlotte Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. Accordingly, in this action, EPA is proposing to approve a request to change the legal designation of the portion of York County that is included in the bi-state Charlotte Area to attainment for the 2008 8-hour ozone NAAQS.

EPA is also notifying the public of the status of EPA's adequacy process for the 2014 and 2026 NO_x and VOC MVEBs for the York County Area. The Adequacy comment period began on May 14, 2015, with EPA's posting of the availability of South Carolina's submission on EPA's Adequacy website (<http://www.epa.gov/otaq/stateresources/transconf/currsips.htm#york-cnty>). The Adequacy comment period for these MVEBs closed on June 15, 2015. No comments, adverse or otherwise, were received through the Adequacy process. Please see

section VII of this proposed rulemaking for further explanation of this process and for more details on the MVEBs.

In summary, today's notice of proposed rulemaking is in response to South Carolina's April 17, 2015, redesignation request and associated SIP submission that address the specific issues summarized above and the necessary elements described in section 107(d)(3)(E) of the CAA for redesignation of the South Carolina portion of the Area to attainment for the 2008 8-hour ozone NAAQS.

II. What is the Background for EPA's Proposed Actions?

On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). *See* 73 FR 16436 (March 27, 2008). Under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm. *See* 40 CFR 50.15. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in Appendix I of part 50.

Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS, based on the three most recent years of complete, quality assured, and certified ambient air quality data at the conclusion of the designation process. The bi-state Charlotte Area was designated nonattainment for the 2008 8-

hour ozone NAAQS on May 21, 2012 (effective July 20, 2012) using 2009-2011 ambient air quality data. *See* 77 FR 30088 (May 21, 2012). At the time of designation, the bi-state Charlotte Area was classified as a marginal nonattainment area for the 2008 8-hour ozone NAAQS. In the final implementation rule for the 2008 8-hour ozone NAAQS (SIP Implementation Rule),² EPA established ozone nonattainment area attainment dates based on Table 1 of section 181(a) of the CAA. This established an attainment date three years after the July 20, 2012, effective date for areas classified as marginal areas for the 2008 8-hour ozone nonattainment designations. Therefore, the bi-state Charlotte Area's attainment date is July 20, 2015.

III. What are the Criteria for Redesignation?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation providing that: (1) the Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable

² This rule, entitled Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements and published at 80 FR 12264 (March 6, 2015), addresses a range of nonattainment area SIP requirements for the 2008 ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology (RACT), reasonably available control measures (RACM), major new source review (NSR), emission inventories, and the timing of SIP submissions and of compliance with emission control measures in the SIP. This rule also addresses the revocation of the 1997 ozone NAAQS and the anti-backsliding requirements that apply when the 1997 ozone NAAQS are revoked.

reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and, (5) the state containing such area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992, EPA provided guidance on redesignation in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. “Ozone and Carbon Monoxide Design Value Calculations,” Memorandum from Bill Laxton, Director, Technical Support Division, June 18, 1990;
2. “Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,” Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
3. “Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,” Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;

4. “Procedures for Processing Requests to Redesignate Areas to Attainment,”
Memorandum from John Calcagni, Director, Air Quality Management Division,
September 4, 1992 (hereafter referred to as the “Calcagni Memorandum”);
5. “State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act
(CAA) Deadlines,” Memorandum from John Calcagni, Director, Air Quality
Management Division, October 28, 1992;
6. “Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon
Monoxide (CO) Nonattainment Areas,” Memorandum from G. T. Helms, Chief,
Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
7. “State Implementation Plan (SIP) Requirements for Areas Submitting Requests for
Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National
Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,”
Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and
Radiation, September 17, 1993;
8. “Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO
Nonattainment Areas,” Memorandum from D. Kent Berry, Acting Director, Air
Quality Management Division, November 30, 1993;

9. “Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,” Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and
10. “Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,” Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. Why is EPA Proposing These Actions?

On April 17, 2015, the State of South Carolina, through SC DHEC, requested that EPA redesignate the South Carolina portion of the Area to attainment for the 2008 8-hour ozone NAAQS. EPA’s evaluation indicates that the entire bi-state Charlotte Area has attained the 2008 8-hour ozone NAAQS, and that the South Carolina portion of the Area meets the requirements for redesignation as set forth in section 107(d)(3)(E), including the maintenance plan requirements under section 175A of the CAA. As a result, EPA is proposing to take the three related actions summarized in section I of this notice.

V. What is EPA’s Analysis of the Request?

As stated above, in accordance with the CAA, EPA proposes in this action to: (1) determine that the bi-state Charlotte Area is continuing to attain the 2008 8-hour ozone NAAQS; (2) approve South Carolina’s plan for maintaining the 2008 8-hour ozone NAAQS in the Area,

including the associated MVEBs, into the South Carolina SIP; and (3) redesignate the South Carolina portion of the Area to attainment for the 2008 8-hour ozone NAAQS. The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the Area in the following paragraphs of this section.

Criteria (1) - *The bi-state Charlotte Area has attained the 2008 8-hour ozone NAAQS.*

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). For ozone, an area may be considered to be attaining the 2008 8-hour ozone NAAQS if it meets the 2008 8-hour ozone NAAQS, as determined in accordance with 40 CFR 50.15 and Appendix I of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain the NAAQS, the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area over each year must not exceed 0.075 ppm. Based on the data handling and reporting convention described in 40 CFR part 50, Appendix I, the NAAQS are attained if the design value is 0.075 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA Air Quality System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

In its final action redesignating the North Carolina portion of the bi-state Charlotte Area to attainment for the 2008 8-hour ozone NAAQS, EPA finalized its determination that the bi-state Charlotte Area was attaining that standard in accordance with 40 CFR part 58 at that time. EPA concluded that the design values for each monitor in the Area for the years 2012-2014 are

less than or equal to 0.075 ppm, that the data from these monitors during this time period meet the data quality and completeness requirements and are recorded in AQS, and that preliminary 2015 monitoring data available at the time of the final action indicates that the bi-state Charlotte Area continues to attain the 2008 8-hour ozone NAAQS. *See* 80 FR 44874-44875. EPA has reviewed preliminary monitoring data available since the time of the Agency's redesignation of the North Carolina portion of the Area and proposes to find that the bi-state Charlotte Area is continuing to attain the 2008 8-hour ozone NAAQS.³ For informational purposes, the fourth-highest 8-hour ozone values at each monitor for 2012, 2013, 2014, and the 3-year averages of these values (i.e., design values), are summarized in Table 1, below.

Table 1. 2012 – 2014 Design Value Concentrations for the Bi-State Charlotte Area^a (parts per million)

Location	County	Monitor ID	4th Highest 8-hour Ozone Value (ppm)			3-Year Design Values (ppm)
			2012	2013	2014	2012-2014
Lincoln County Replacing Iron Station	Lincoln	37-109-0004	0.076	0.064	0.064	0.068
Garinger High School	Mecklenburg	37-119-0041	0.080	0.067	0.065	0.070
Westinghouse Blvd	Mecklenburg	37-119-1005	0.073	0.062	0.063	0.066
29 N at Mecklenburg Cab Co.	Mecklenburg	37-119-1009	0.085	0.066	0.068	0.073
Rockwell	Rowan	37-159-0021	0.080	0.062	0.064	0.068
Enochville School [*]	Rowan	37-159-0022	0.077	0.063	----	-----

³ This preliminary data is available at EPA's air data website: http://aqsdrl.epa.gov/aqsweb/aqstmp/airdata/download_files.html#Daily. The list of monitors in the bi-state Charlotte Area is available under the Designated Area field in Table 5 of the Ozone detailed information file at <http://www.epa.gov/airtrends/values.html>.

Monroe Middle School	Union	37-179-0003	0.075	0.062	0.067	0.068
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* Monitoring data for 2014 is not available because the monitor was shut down in 2014.

^ There is a monitor in York County that is located outside of the designated nonattainment area.

The 3-year design value for 2012-2014 for the bi-state Charlotte Area is 0.073 ppm,⁴ which meets the NAAQS. EPA will not take final action to approve the redesignation if the 3-year design value exceeds the NAAQS prior to EPA finalizing the redesignation. The monitors used to determine the attainment status for the bi-state Charlotte Area are all located in North Carolina; no monitors are located in the South Carolina portion of the Area. As discussed in more detail below, the State of North Carolina has committed to continue monitoring in the bi-state Charlotte Area in accordance with 40 CFR part 58.⁵

Criteria (2) – South Carolina has a fully approved SIP under section 110(k) for the South Carolina portion of the Area; and Criteria (5) – South Carolina has met all applicable requirements under section 110 and part D of title I of the CAA.

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (CAA section 107(d)(3)(E)(v)) and that the state has a fully approved SIP under section 110(k) for the area (CAA section 107(d)(3)(E)(ii)). EPA proposes to find that South Carolina has met all applicable SIP requirements for the South Carolina portion of the Area

⁴ The monitor with the highest 3-year design value is considered the design value for the Area.

⁵ See also EPA's proposed rulemaking notice associated with the redesignation of the North Carolina portion of the Area. 80 FR 29250, 29259 (May 21, 2015).

under section 110 of the CAA (general SIP requirements) for purposes of redesignation.

Additionally, EPA proposes to find that the South Carolina SIP satisfies the criterion that it meets applicable SIP requirements for purposes of redesignation under part D of title I of the CAA in accordance with section 107(d)(3)(E)(v). Further, EPA proposes to determine that the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these determinations, EPA ascertained which requirements are applicable to the South Carolina portion of the Area and, if applicable, that they are fully approved under section 110(k). SIPs must be fully approved only with respect to requirements that were applicable prior to submittal of the complete redesignation request.

a. *The South Carolina portion of the Area has met all applicable requirements under section 110 and part D of the CAA.*

General SIP requirements. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (NSR permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants. The section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation.

In addition, EPA believes other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (i.e., for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174-53176, October 10, 1996), (62 FR 24826, May 7, 2008); Cleveland-Akron-Loraine, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). *See also* the discussion on this

issue in the Cincinnati, Ohio, redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 50399, October 19, 2001).

Title I, Part D, applicable SIP requirements. Section 172(c) of the CAA sets forth the basic requirements of attainment plans for nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the area's nonattainment classification. As provided in Subpart 2, a marginal ozone nonattainment area, such as the South Carolina portion of the Area, must submit an emissions inventory that complies with section 172(c)(3), but the specific requirements of section 182(a) apply in lieu of the demonstration of attainment (and contingency measures) required by section 172(c). *See* 42 U.S.C. 7511a(a). A thorough discussion of the requirements contained in sections 172(c) and 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

Section 182(a) Requirements. Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of VOC and NO_x emitted within the boundaries of the ozone nonattainment area. South Carolina provided an emissions inventory for the South Carolina portion of the Area to EPA in an August 8, 2014, SIP submission. On June 12, 2015, EPA published a direct final rule to approve this emissions inventory into the SIP.⁶ *See* 80 FR 33413 (direct final rule) and 80 FR 33460 (associated proposed rule).

⁶ This direct final rule was effective on July 13, 2015, because EPA did not receive any adverse comment during the public comment period.

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC RACT rules that were required under section 172(b)(3) of the CAA (and related guidance) prior to the 1990 CAA amendments. The South Carolina portion of the Area is not subject to the section 182(a)(2) RACT “fix up” because it was designated as nonattainment after the enactment of the 1990 CAA amendments.

Section 182(a)(2)(B) requires each state with a marginal ozone nonattainment area that implemented, or was required to implement, an inspection and maintenance (I/M) program prior to the 1990 CAA amendments to submit a SIP revision providing for an I/M program no less stringent than that required prior to the 1990 amendments or already in the SIP at the time of the amendments, whichever is more stringent. The South Carolina portion of the Area is not subject to the section 182(a)(2)(B) because it was designated as nonattainment after the enactment of the 1990 CAA amendments and did not have an I/M program in place prior to those amendments.

Regarding the permitting and offset requirements of section 182(a)(2)(C) and section 182(a)(4), South Carolina currently has a fully-approved part D NSR program in place. However, EPA has determined that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR, because PSD requirements will apply after redesignation. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, “Part D New Source Review Requirements for Areas Requesting Redesignation to

Attainment.” South Carolina’s PSD program will become applicable in the South Carolina portion of the Area upon redesignation to attainment.

Section 182(a)(3) requires states to submit periodic inventories and emissions statements. Section 182(a)(3)(A) requires states to submit a periodic inventory every three years. As discussed below in the section of this notice titled Criteria (4)(e), *Verification of Continued Attainment*, the State will continue to update its emissions inventory at least once every three years. Under section 182(a)(3)(B), each state with an ozone nonattainment area must submit a SIP revision requiring emissions statements to be submitted to the state by sources within that nonattainment area. South Carolina provided a SIP revision to EPA on August 22, 2014, addressing the section 182(a)(3)(B) emissions statements requirement, and on June 12, 2015, EPA published a direct final rule to approve this SIP revision.⁷ See 80 FR 33413 (direct final rule) and 80 FR 33460 (associated proposed rule).

Section 176 Conformity Requirements. Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement, and enforceability that EPA promulgated pursuant to its authority under the CAA.

⁷ This direct final rule was effective on July 13, 2015, because EPA did not receive any adverse comment during the public comment period.

EPA interprets the conformity SIP requirements⁸ as not applying for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state rules have not been approved. *See Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, South Carolina has an approved conformity SIP for the South Carolina portion of the Area. *See* 74 FR 37168 (July 28, 2009). Thus, the South Carolina portion of the bi-state Charlotte Area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

b. The South Carolina portion of the bi-state Charlotte Area has a fully approved applicable SIP under section 110(k) of the CAA.

EPA has fully approved the applicable South Carolina SIP for the South Carolina portion of the Area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request (*see* Calcagni Memorandum at p. 3; *Southwestern Pennsylvania Growth Alliance v. Browner*, 144 F.3d 984, 989-90 (6th Cir. 1998); *Wall*, 265 F.3d 426) plus any additional measures it may approve in conjunction with a redesignation action (*see* 68 FR 25426 (May 12, 2003) and citations therein). South Carolina has adopted and submitted, and EPA has fully approved at

⁸ CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from the MVEBs that are established in control strategy SIPs and maintenance plans.

various times, provisions addressing the various SIP elements applicable for the ozone NAAQS. *See* 80 FR 11136 (March 2, 2015); 76 FR 41111 (July 13, 2011).

As indicated above, EPA believes that the section 110 elements that are neither connected with nonattainment plan submissions nor linked to an area's nonattainment status are not applicable requirements for purposes of redesignation. EPA has approved all part D requirements applicable for purposes of this redesignation. As noted above, EPA has approved South Carolina's August 8, 2014, emissions inventory SIP revision, and its August 22, 2014, emissions statements SIP revision. *See* 80 FR 33413.

Criteria (3) - The air quality improvement in the bi-state Charlotte Area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable reductions.

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable Federal air pollution control regulations, and other permanent and enforceable reductions (CAA section 107(d)(3)(E)(iii)). EPA has preliminarily determined that South Carolina has demonstrated that the observed air quality improvement in the bi-state Charlotte Area is due to permanent and enforceable reductions in emissions resulting from Federal measures and from state measures

adopted into the SIP. EPA does not believe that the decrease in ozone concentrations in the bi-state Charlotte Area is due to unusually favorable meteorological conditions.⁹

State and Federal measures enacted in recent years have resulted in permanent emission reductions. Most of these emission reductions are enforceable through regulations. The state measures that have been implemented to date and identified by South Carolina as permanent and enforceable measures include Regulation 61-62.2 - *Prohibition of Open Burning* and Regulation 61-62.5 - *Control of Oxides of Nitrogen*. These measures are approved in the federally-approved SIP and thus are permanent and enforceable. The Federal measures that have been implemented include the following:

Tier 2 vehicle and fuel standards. Implementation began in 2004 and as newer, cleaner cars enter the national fleet, these standards continue to significantly reduce NOx emissions. The standards require all passenger vehicles in any manufacturer's fleet to meet an average standard of 0.07 grams of NOx per mile. Additionally, in January 2006 the sulfur content of gasoline was required to be on average 30 ppm which assists in lowering the NOx emissions. Most gasoline sold in South Carolina prior to January 2006 had a sulfur content of about 300 ppm.¹⁰ EPA expects that these standards will reduce NOx emissions from vehicles by approximately 74 percent by 2030, translating to nearly 3 million tons annually by 2030.¹¹

⁹ See 80 FR 44875-44877.

¹⁰ South Carolina also identified Tier 3 Motor Vehicle Emissions and Fuel Standards as a federal measure. EPA issued this rule in April 28, 2014, which applies to light duty passenger cars and trucks. EPA promulgated this rule to reduce air pollution from new passenger cars and trucks beginning in 2017. Tier 3 emission standards will lower sulfur content of gasoline and lower the emissions standards.

¹¹ EPA, Regulatory Announcement, EPA420-F-99-051 (December 1999), available at: <http://www.epa.gov/tier2/documents/f99051.pdf>.

Large non-road diesel engines rule. This rule was promulgated in 2004, and is being phased in between 2008 through 2014. This rule will also reduce the sulfur content in the nonroad diesel fuel. When fully implemented, this rule will reduce NOx, VOC, particulate matter, and carbon monoxide. These emission reductions are federally enforceable. EPA issued this rule in June 2004, which applies to diesel engines used in industries, such as construction, agriculture, and mining. It is estimated that compliance with this rule will cut NOx emissions from non-road diesel engines by up to 90 percent nationwide. The non-road diesel rule was fully implemented by 2010.

Heavy-duty gasoline and diesel highway vehicle standards. EPA issued this rule in January 2001 (66 FR 5002). This rule includes standards limiting the sulfur content of diesel fuel, which went into effect in 2004. A second phase took effect in 2007, which further reduced the highway diesel fuel sulfur content to 15 ppm, leading to additional reductions in combustion NOx and VOC emissions. EPA expects that this rule will achieve a 95 percent reduction in NOx emissions from diesel trucks and buses and will reduce NOx emissions by 2.6 million tons by 2030 when the heavy-duty vehicle fleet is completely replaced with newer heavy-duty vehicles that comply with these emission standards.¹²

Medium and heavy duty vehicle fuel consumption and GHG standards. These standards require on-road vehicles to achieve a 7 percent to 20 percent reduction in CO₂ emissions and fuel consumption by 2018. The decrease in fuel consumption will result in a 7 percent to 20 percent decrease in NOx emissions.

¹² 66 FR 5002, 5012 (January 18, 2001).

Nonroad spark-ignition engines and recreational engines standards. The nonroad spark-ignition and recreational engine standards, effective in July 2003, regulate NO_x, hydrocarbons, and carbon monoxide from groups of previously unregulated nonroad engines. These engine standards apply to large spark-ignition engines (e.g., forklifts and airport ground service equipment), recreational vehicles (e.g., off-highway motorcycles and all-terrain-vehicles), and recreational marine diesel engines sold in the United States and imported after the effective date of these standards. When all of the nonroad spark-ignition and recreational engine standards are fully implemented, an overall 72 percent reduction in hydrocarbons, 80 percent reduction in NO_x, and 56 percent reduction in carbon monoxide emissions are expected by 2020. These controls reduce ambient concentrations of ozone, carbon monoxide, and fine particulate matter.

National Program for greenhouse gas (GHG) emissions and Fuel Economy Standards. The federal GHG and fuel economy standards apply to light-duty cars and trucks in model years 2012-2016 (phase 1) and 2017-2025 (phase 2). The final standards are projected to result in an average industry fleet-wide level of 163 grams/mile of carbon dioxide (CO₂) which is equivalent to 54.5 miles per gallon (mpg) if achieved exclusively through fuel economy improvements. The fuel economy standards result in less fuel being consumed, and therefore less NO_x emissions released.

*Reciprocating Internal Combustion Engine (RICE) National Emissions Standards for Hazardous Air Pollutants (NESHAP).*¹³ The RICE NESHAP is expected to result in a small decrease in VOC emissions. RICE owners and operators had to comply with the NESHAP by May 3, 2013.

¹³ This NESHAP is expected to result in a small decrease in VOC emissions. Boilers must comply with the NESHAP by January 31, 2016, for all states except North Carolina which has a compliance date in May 2019.

NOx SIP Call. On October 27, 1998 (63 FR 57356), EPA issued the NOx SIP Call requiring the District of Columbia and 22 states to reduce emissions of NOx, a precursor to ozone pollution, and providing a mechanism (the NOx Budget Trading Program) that states could use to achieve those reductions. Affected states were required to comply with Phase I of the SIP Call beginning in 2004 and Phase II beginning in 2007. By the end of 2008, ozone season emissions from sources subject to the NOx SIP Call dropped by 62 percent from 2000 emissions levels. All NOx SIP Call states have SIPs that currently satisfy their obligations under the NOx SIP Call; the NOx SIP Call reduction requirements are being met; and EPA will continue to enforce the requirements of the NOx SIP Call. Emission reductions resulting from regulations developed in response to the NOx SIP Call are therefore permanent and enforceable for the purposes of today's action.

CAIR/CSAPR. In its redesignation request and maintenance plan, the State identified the Clean Air Interstate Rule (CAIR) and the Cross-State Air Pollution Rule (CSAPR) as two measures that contributed to permanent and enforceable emissions reductions. CAIR created regional cap-and-trade programs to reduce SO₂ and NOx emissions in 27 eastern states, including South Carolina, that contributed to downwind nonattainment and maintenance of the 1997 8-hour ozone NAAQS and the 1997 PM_{2.5} NAAQS. *See* 70 FR 25162 (May 12, 2005). EPA approved South Carolina's CAIR regulations into the South Carolina SIP on October 16, 2009. *See* 74 FR 53167. In 2008, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR, *North Carolina v. EPA*, 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina v. EPA*, 550 F.3d 1176, 1178 (D.C.

Cir. 2008). On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA promulgated CSAPR to replace CAIR and thus to address the interstate transport of emissions contributing to nonattainment and interfering with maintenance of the two air quality standards covered by CAIR as well as the 2006 PM_{2.5} NAAQS. CSAPR requires substantial reductions of SO₂ and NO_x emissions from electric generating units (EGUs) in 28 states in the Eastern United States.

The D.C. Circuit's initial vacatur of CSAPR¹⁴ was reversed by the United States Supreme Court on April 29, 2014, and the case was remanded to the D.C. Circuit to resolve remaining issues in accordance with the high court's ruling. *EPA v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014). On remand, the D.C. Circuit affirmed CSAPR in most respects, but invalidated without vacating some of the CSAPR budgets as to a number of states. *EME Homer City Generation, L.P. v. EPA*, 795 F.3d 118 (D.C. Cir. 2015). The remanded budgets include the Phase 2 sulfur dioxide (SO₂) and NO_x ozone season emissions budgets for South Carolina. This litigation ultimately delayed implementation of CSAPR for three years, from January 1, 2012, when CSAPR's cap-and-trade programs were originally scheduled to replace the CAIR cap-and-trade programs, to January 1, 2015. Thus, the rule's Phase 2 budgets were originally promulgated to begin on January 1, 2014, and are now scheduled to begin on January 1, 2017. CSAPR will continue to operate under the existing emissions budgets until EPA addresses the D.C. Circuit's remand.

Although the State identified CAIR and CSAPR as measures that contributed to permanent and enforceable emissions reductions, EPA is proposing to approve the redesignation

¹⁴ *EME Homer City Generation, L.P. v. EPA*, 696 F.3d 7, 38 (D.C. Cir. 2012).

of the South Carolina portion of the bi-State Charlotte Area without relying on those measures as having led to attainment of the 2008 ozone NAAQS or contributing to maintenance of that standard. In so doing, we are proposing to determine that the D.C. Circuit's invalidation of the South Carolina CSAPR Phase 2 ozone season NO_x and SO₂ emissions budgets does not bar today's proposed redesignation.¹⁵

The improvement in ozone air quality in the Area from 2011 (a year when the design value for the Area was above the NAAQS) to 2014 (a year when the design value was below the NAAQS) is not due to CSAPR emissions reductions because, as noted above, CSAPR did not go into effect until January 1, 2015, after the Area was already attaining the standard. As a general matter, because CSAPR is CAIR's replacement, emissions reductions associated with CAIR will for most areas be made permanent and enforceable through implementation of CSAPR.

However, EPA has preliminarily determined that the vast majority of reductions in emissions in the South Carolina portion of the Area from 2011-2014 were due to permanent and enforceable reductions in mobile source VOC and NO_x emissions. In addition, EPA's analysis of EGU emissions data from CAIR-subject sources in South Carolina, none of which are located in the South Carolina portion of the Charlotte Area, further support our proposed determination that attainment of the 2008 ozone NAAQS in the Area was not due to CAIR reductions from South Carolina EGUs.

As summarized at the end of this section, EPA found that from 2011 to 2014, mobile source emission reductions accounted for 82 percent of the total NO_x reductions and 85 percent of the total VOC reductions in the South Carolina portion of the Area. As laid out in the State's

¹⁵ The Court's holding regarding South Carolina's SO₂ CSAPR emissions budget is irrelevant to today's action because SO₂ is not an ozone precursor.

maintenance demonstration, NO_x and VOC emissions in the South Carolina portion of the Area are projected to continue their downward trend through the end of the first maintenance plan period, driven entirely by mobile source measures.¹⁶ From 2014 to 2026, the State projected that all of the emissions decreases in the South Carolina portion of the Area would be due to mobile source measures based on EPA-approved mobile source modeling.

Furthermore, emissions data from EPA's Clean Air Markets Division (CAMD) summarized in Table 3 shows that NO_x emissions from CAIR-subject EGUs in South Carolina were already below the NO_x ozone season CAIR budget by 2011, when the design value for the Area was above the 2008 ozone NAAQS. EPA believes that the additional decreases in NO_x emissions from South Carolina EGUs in 2012-2014 were largely due to the retirement of several coal- and oil- fired EGUs during that time period. *See* Table 4. These retirements are permanent and enforceable, regardless of the rationale behind the shutdowns. Because these retired units were subject to CAIR, even if CAIR was partially responsible for attainment of the 2008 ozone NAAQS in the South Carolina portion of the Area, CAIR's part in that attainment has been made permanent and enforceable through retirements that will endure.¹⁷ Given the particular facts and circumstances associated with this Area, EPA does not believe that the D.C. Circuit's recent invalidation of South Carolina's CSAPR Phase 2 NO_x ozone season and SO₂ budgets, which replaced CAIR's NO_x ozone season and SO₂ budgets, is a bar to EPA's redesignation of the South Carolina portion of the Area for the 2008 ozone NAAQS.

¹⁶ Although the State listed CAIR and CSAPR as permanent and enforceable measures, the State's maintenance demonstration does not include emissions reductions from these programs because there are no EGUs in the South Carolina portion of the Area.

¹⁷ EPA expects that NO_x emissions from South Carolina EGUs will continue to decrease with the scheduled retirement of two coal- and/or oil-fired EGUs by the end of 2018 and the switch from coal and/or oil to natural gas at two additional EGUs. None of these units are located in the Charlotte Area.

Table 3. Comparison of South Carolina EGU annual NOx ozone season budget and NOx ozone season emissions from South Carolina EGUs

South Carolina EGU CAIR NOx ozone season annual budget (2009-2014)	South Carolina EGU NOx ozone season emissions			
	2011	2012	2013	2014
15,249	13,036	8,817	6,491	7,237

Table 4. South Carolina EGUs that retired during 2011-2014

Facility Name	Unit	2011 Ozone Season NOx Emissions (tons)	Retirement Date
H B Robinson	1	378	2012
W S Lee	1	166	2014
W S Lee	2	181	2014
Canadys Steam	CAN1	492	2012
Canadys Steam	CAN2	515	2013
Canadys Steam	CAN3	769	2013
Dolphus M Grainger	1	186	2012
Dolphus M Grainger	2	192	2012
Jefferies	3	423	2012
Jefferies	4	418	2012

As mentioned above, the State measures that have been implemented include the following:¹⁸

Prohibition of Open Burning: Effective in 2004, Regulation 61-62.2 prohibits the certain open burning activities during the ozone season for additional control of NOx emissions.

Control of Oxides of Nitrogen: Effective in 2004, Regulation 61-62.5, Standard 5.2 - Control of Oxides of Nitrogen, applies to new and existing stationary sources that emit or have

¹⁸ EPA incorporated these two measures into the SIP in 2005. See 70 FR 50195 (August 26, 2005).

the potential to emit NO_x generated from fuel combustion. This regulation sets standards for new construction based on Best Available Control Technology (BACT) standards from the national RACT/BACT/LAER clearinghouse. For new sources, the regulation is primarily directed at smaller sources that fall below the prevention of significance deterioration (PSD) thresholds and therefore otherwise be exempt for NO_x controls.¹⁹

EPA evaluated the ozone precursor emissions data in the South Carolina portion of the Area and found that there were significant reductions in these emissions in multiple source categories from 2011 to 2014 during ozone season. The emissions data show that from 2011 to 2014, NO_x and VOC emissions decreased in the point source, area source, and mobile source categories and that the decrease in mobile source NO_x emissions accounted for approximately 82 percent of the total NO_x emissions reductions and approximately 85 percent of the total VOC emissions reductions. It is not necessary for every change in emissions between the nonattainment year and the attainment year to be permanent and enforceable. Rather, the CAA requires that improvement in air quality necessary for the area to attain the relevant NAAQS must be reasonably attributable to permanent and enforceable emission reductions in emissions.

Table 5: NO_x Emissions for the South Carolina Portion of the Charlotte 2008 Ozone NAAQS Nonattainment Area (tons per summer day)

¹⁹ South Carolina stated that neighboring states have adopted measures to improve regional air quality, noting that North Carolina has implemented the state-wide Clean Smokestacks Act which sets a cap on NO_x and sulfur dioxide emissions. North Carolina's Clean Smokestacks Act requires coal-fired power plants to reduce annual NO_x emissions by 77 percent by 2009, and to reduce annual SO₂ emissions by 49 percent by 2009 and 73 percent by 2013. This law set a NO_x emissions cap of 56,000 tons/year for 2009 and SO₂ emissions caps of 250,000 tons/year and 130,000 tons/year for 2009 and 2013, respectively. The public utilities cannot meet these emission caps by purchasing emission credits. EPA approved the statewide emissions caps as part of the North Carolina SIP on September 26, 2011. In 2013, the power plants subject to this law had combined NO_x emissions of 38,857 tons per year, well below the 56,000 tons per year cap. The emissions cap has been met in all subsequent years as well and is enforceable at both the federal and state level.

Year	Point Source	Area Source	On-Road	Non-Road	Total
2011	4.71	0.93	11.43	2.63	19.70
2014	4.54	0.91	10.04	2.50	17.85

Table 6: VOC Emissions for the South Carolina Portion of the Charlotte 2008 Ozone NAAQS Nonattainment Area (tons per summer day)

Year	Point Source	Area Source	On-Road	Non-Road	Total
2011	4.02	6.93	5.30	1.78	18.03
2014	3.80	6.89	3.93	1.70	16.32

The emissions reductions identified in Tables 5 and 6 are attributable to numerous measures implemented during this period, including the permanent and enforceable mobile source measures discussed above such as the Tier 2 vehicle and fuel standards, the large non-road diesel engines rule,²⁰ heavy-duty gasoline and diesel highway vehicle standards,²¹ medium and heavy duty vehicle fuel consumption and GHG standards,²² non-road spark-ignitions and recreational standards,²³ and the national program for GHG emissions and fuel economy standards. These mobile source measures have resulted in, and continue to result in, large reductions in NOx emissions over time due to fleet turnover (i.e., the replacement of older vehicles that predate the standards with newer vehicles that meet the standards). For example, implementation of the Tier 2 standards began in 2004, and as newer, cleaner cars enter the national fleet, these standards continue to significantly reduce NOx emissions. EPA expects that

²⁰ EPA estimated that compliance with this rule will cut NOx emissions from non-road diesel engines by up to 90 percent nationwide.

²¹ Implementation of this rule is expected to achieve a 95 percent reduction in NOx emissions from diesel trucks and buses.

²² When fully implemented in 2018, this rule is expected to reduce NOx emissions from the covered vehicles by 20 percent.

²³ When fully implemented, the standards will result in an 80 percent reduction in NOx by 2020.

these standards will reduce NOx emissions from vehicles by approximately 74 percent by 2030, translating to nearly 3 million tons annually by 2030.²⁴ Implementation of the heavy-duty gasoline and diesel highway vehicle standards rule also began in 2004. EPA projects a 2.6 million ton reduction in NOx emissions by 2030 when the heavy-duty vehicle fleet is completely replaced with newer heavy-duty vehicles that comply with these emission standards.²⁵

The State calculated the on-road and non-road mobile source emissions contained in Tables 5 and 6 using EPA-approved models and procedures that account for the Federal mobile source measures identified above, fleet turnover, and increased population.^{26, 27} Because the model does not include any additional mobile source measures, the reductions in mobile source emissions quantified in the Area between 2011 and 2014 are the result of the permanent and enforceable mobile source measures listed above.

Improvements in air quality in the bi-state Charlotte area are due to real, permanent and enforceable reductions in NOx emissions resulting from state and federal measures. EPA is proposing to approve the redesignation request and related SIP revisions for the York County portion of the bi-state Charlotte Area.

²⁴ EPA, Regulatory Announcement, EPA420-F-99-051 (December 1999), available at: <http://www.epa.gov/tier2/documents/f99051.pdf>.

²⁵ 66 FR 5002, 5012 (January 18, 2001).

²⁶ South Carolina used EPA's MOVES2014 model to calculate on-road emissions factors and EPA's NONROAD 2008a model to quantify off-road emissions.

²⁷ South Carolina used the interagency consultation process required by 40 CFR part 93 (known as the Transportation Conformity Rule) which requires EPA, the United States Department of Transportation, metropolitan planning organizations, state departments of transportation, and State and local air quality agencies to work together to develop applicable implementation plans. The on-road emissions were generated by an aggregate of the vehicle activity (generated from the travel demand model) on individual roadways multiplied by the appropriate emissions factor from MOVES2014. The assumptions which are included in the travel demand model, such as population, were reviewed through the interagency consultation process.

Criteria (4) - The South Carolina portion of the Area has a fully approved maintenance plan pursuant to section 175A of the CAA.

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA (CAA section 107(d)(3)(E)(iv)). In conjunction with its request to redesignate the South Carolina portion of the Area to attainment for the 2008 8-hour ozone NAAQS, SC DHEC submitted a SIP revision to provide for the maintenance of the 2008 8-hour ozone NAAQS for at least 10 years after the effective date of redesignation to attainment. EPA believes that this maintenance plan meets the requirements for approval under section 175A of the CAA.

a. What is required in a maintenance plan?

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as EPA deems necessary to assure prompt correction of any future 2008 8-hour ozone violations. The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: the attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency

plan. As is discussed more fully below, EPA has preliminarily determined that South Carolina's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the South Carolina SIP.

b. Attainment Emissions Inventory

As discussed above, EPA determined that the bi-state Charlotte Area had attained the 2008 8-hour ozone NAAQS at the time that it redesignated the North Carolina portion of the Area to attainment. *See* 80 FR 44874-44875. EPA has reviewed preliminary monitoring data available since the time of the Agency's redesignation of the North Carolina portion of the Area and proposes to find that the bi-state Charlotte Area continues to attain the 2008 8-hour ozone NAAQS. South Carolina selected 2014 as the base year (i.e., attainment emissions inventory year) for developing a comprehensive emissions inventory for NO_x and VOC, for which projected emissions could be developed for 2018, 2022, and 2026. The attainment inventory identifies a level of emissions in the Area that is sufficient to attain the 2008 8-hour ozone NAAQS. South Carolina began development of the attainment inventory by first generating a baseline emissions inventory for the State's portion of the bi-state Charlotte Area. The projected summer day emission inventories have been estimated using projected rates of growth in population, traffic, economic activity, and other parameters. In addition to comparing the final year of the plan (2026) to the base year (2014), South Carolina compared interim years to the baseline to demonstrate that these years are also expected to show continued maintenance of the 2008 8-hour ozone standard.

The emissions inventory is composed of four major types of sources: point, area, on-road mobile, and non-road mobile. South Carolina also included event sources (i.e., fires) in the inventory. The complete descriptions of how the inventories were developed are discussed in Appendices A–E of the April 17, 2015, submittal, which can be found in the docket for this action. Point source emissions are tabulated from data collected by direct on-site measurements of emissions or from mass balance calculations utilizing emission factors from EPA’s AP-42 or stack test results. For each projected year’s inventory, point sources are adjusted by growth factors based on economic forecasting for the energy sector. Airport and helipad emissions reported were obtained from the EPA’s 2011 National Emission Inventory and grown based on York County population growth.

For area sources, emissions are estimated by multiplying an emission factor by some known indicator of collective activity such as production, number of employees, or population. South Carolina started with the 2011 NEI for area sources reported at the York County level, then allocated the emissions to the portion of the county within the bi-state Charlotte Area by the proportion of the York County population within the Area. For each projected year’s inventory, area source emissions are grown by information such as population growth, energy consumption by sector, or county business patterns from the Census.

The non-road mobile sources emissions are calculated using EPA’s nonroad portion of the Motor Vehicle Emission Simulator (MOVES2014) model, with the exception of the emissions associated with railroad locomotives, which were obtained from EPA’s 2011 NEI v1. For each projected year’s inventory, the emissions are estimated using growth factors based on York County population growth.

For highway mobile sources, South Carolina ran EPA's MOVES2014 mobile model to calculate emissions. The MOVES2014 model includes the road class vehicle miles traveled (VMT) as an input file and can directly output the estimated emissions. For each projected year's inventory, the highway mobile sources emissions are calculated by running the MOVES mobile model for the future year with the projected VMT to generate emissions that take into consideration expected Federal tailpipe standards, fleet turnover, and new fuels.

The events inventory, consisting of wildfires and prescribed fires, was first based on EPA's 2011 NEI v1, which utilized a model for predicting emission from fires based on factors such as the area burned, fuel load available, burn efficiency, and emission factors. Emissions from fires were not grown for the maintenance and interim years due to the unpredictability of projecting wildfires.

The 2014 NO_x and VOC emissions for the South Carolina portion of the Area, as well as the emissions for other years, were developed consistent with EPA guidance and are summarized in Tables 7 through 9 of the following subsection discussing the maintenance demonstration. *See* Appendices A – E of the April 17, 2015, submission for more detailed information on the emissions inventory.

c. Maintenance Demonstration

The maintenance plan associated with the redesignation request includes a maintenance demonstration that:

- (i) Shows compliance with and maintenance of the 2008 8-hour ozone NAAQS by providing information to support the demonstration that current and future emissions of NO_x and VOC remain at or below 2014 emissions levels.
- (ii) Uses 2014 as the attainment year and includes future emissions inventory projections for 2018, 2022, and 2026.
- (iii) Identifies an “out year” at least 10 years after the time necessary for EPA to review and approve the maintenance plan. Per 40 CFR part 93, NO_x and VOC MVEBs were established for the last year (2026) of the maintenance plan (see section VII below).
Additionally, SC DHEC opted to establish MVEBs for an interim year (2014).
- (iv) Provides actual (2014) and projected emissions inventories, in tons per summer day (tpsd), for the South Carolina portion of the Area, as shown in Tables 7 through 9, below.

Table 7. Actual and Projected Typical Summer Day NO_x Emissions (tpsd) for the South Carolina Portion of the Area

Sector	2014	2018	2022	2026
Point	4.54	4.57	4.59	4.62
Area	0.91	0.92	0.92	0.92
Non-road	2.50	1.91	1.58	1.43
On-road	10.04	6.65	4.61	3.39
Event sources	0.04	0.04	0.04	0.04
Total*	18.03	14.09	11.74	10.40

Table 8. Actual and Projected Typical Summer Day VOC Emissions (tpsd) for the South Carolina Portion of the Area

Sector	2014	2018	2022	2026
Point	3.80	3.83	3.84	3.86
Area	6.89	7.30	7.54	7.80
Non-	1.70	1.46	1.39	1.40

road				
On-road	3.93	2.79	2.15	1.74
Event sources	0.42	0.42	0.42	0.42
Total*	16.74	15.80	15.34	15.22

Table 9. Emission Estimates for the South Carolina Portion of the Area

Year	VOC (tpsd)	NO_x (tpsd)
2014	16.74	18.03
2018	15.80	14.09
2022	15.34	11.74
2026	15.22	10.40
Difference from 2014 to 2026	-1.52	-7.63

Tables 7 through 9 summarize the 2014 and future projected emissions of NO_x and VOC from the South Carolina portion of the Area. In situations where local emissions are the primary contributor to nonattainment, the NAAQS should not be violated in the future as long as emissions from within the nonattainment area remain at or below the baseline with which attainment was achieved. South Carolina has projected emissions as described previously and determined that emissions in the South Carolina portion of the Area will remain below those in the attainment year inventory for the duration of the maintenance plan.

As discussed in section VII of this proposed rulemaking, a safety margin is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. South Carolina selected 2014 as the attainment emissions inventory year for the South Carolina portion of the Area. South Carolina calculated safety margins in its submittal for year 2018, 2022, and 2026. Because the initial MVEB year of 2014 is also the base year for the maintenance plan inventory,

there is no safety margin, therefore, no adjustments were made to the MVEB for 2014. The State has allocated a portion of the 2026 safety margin to the 2026 MVEBs for the York County Area.

Table 10. New Safety Margins for the South Carolina portion of the Area

Year	VOC (tpsd)	NOx (tpsd)
2014	N/A	N/A
2018	-0.94	-3.94
2022	-1.40	-6.29
2026	-1.52	-7.63

The State decided to allocate 100 percent of the 2026 safety margin to the 2026 MVEBs to allow for unanticipated growth in VMT, changes and uncertainty in vehicle mix assumptions, etc., that will influence the emission estimations. SC DHEC has allocated 7.63 tpd (6,922 kg/day) to the 2026 NOx MVEB and 1.52 tpd (1,379 kg/day) to the 2026 VOC MVEB. After allocation of 100 percent of the available safety margin, there is no remaining safety margin for NOx and VOC. This allocation and the resulting safety margin for the South Carolina portion of the Area are discussed further in section VI of this proposed rulemaking along with the MVEBs to be used for transportation conformity proposes.

d. Monitoring Network

There are currently seven monitors measuring ozone in the bi-state Charlotte Area. All of these monitors are operated by the State of North Carolina or Mecklenburg County. There are no South Carolina monitors in the bi-state Charlotte Area. Specifically, North Carolina operates four of the monitors in the bi-state Charlotte Area, whereas the Mecklenburg County Air Quality Office operates three of the monitors in Mecklenburg County. The State of North Carolina,

through the North Carolina Department of Air Quality has committed to continue operation of all monitors in the North Carolina portion of the bi-state Charlotte Area (which happens to be all of the monitors in the bi-state Charlotte Area) in compliance with 40 CFR part 58 and have thus addressed the requirement for monitoring. EPA approved North Carolina's commitment to continuing monitoring as part of the Agency's action to redesignate the North Carolina portion of the bi-state Charlotte Area to attainment of the 2008 8-hour ozone NAAQS. *See* 80 FR 44873 (July 28, 2015). EPA approved North Carolina's monitoring plan on November 25, 2013.

e. Verification of Continued Attainment

The State of South Carolina, through SC DHEC, has the legal authority to enforce and implement the requirements of the South Carolina portion of the Area 2008 8-hour ozone maintenance plan. This includes the authority to adopt, implement, and enforce any subsequent emissions control contingency measures determined to be necessary to correct future ozone attainment problems.

Additionally, under the Consolidated Emissions Reporting Rule (CERR) and Air Emissions Reporting Requirements (AERR), SC DHEC is required to develop a comprehensive, annual, statewide emissions inventory every three years that is due twelve to eighteen months after the completion of the inventory year. The AERR inventory years match the base year and final year of the inventory for the maintenance plan, and are within one or two years of the interim inventory years of the maintenance plan. Therefore, SC DHEC commits to compare the CERR and AERR inventories as they are developed with the maintenance plan to determine if additional steps are necessary for continued maintenance of the 2008 8-hour ozone NAAQS in this Area.

f. Contingency Measures in the Maintenance Plan.

Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the state. A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

In the April 17, 2015 submittal, South Carolina affirms that all programs instituted by the State will remain enforceable and that sources are prohibited from reducing emissions controls following the redesignation of the Area. The contingency plan included in the submittal includes a triggering mechanism to determine when contingency measures are needed and a process of developing and implementing appropriate control measures. The primary trigger of the contingency plan will be a quality assured/quality controlled (QA/QC) design value that exceeds the 2008 8-hour ozone NAAQS (i.e., when the three-year average of the 4th highest values is equal to or greater than 0.076 ppm at any monitor in the Area). If the QA/QC data indicates a violating design value, the triggering event will be the date of the design value violation, not the final QA/QC date.

Additionally, SC DHEC will be evaluating periodic emissions inventories and comparing them to the projected inventories. If the emissions reported in these inventories exceed the projected emissions in the maintenance plan by more than 10 percent, SC DHEC will investigate the cause for these differences and develop a strategy for addressing them.

Finally, SC DHEC commits to implement, within 24 months of a trigger, at least one of the control measures listed below or other contingency measures that may be determined to be more appropriate based on the analyses performed.²⁸ At least one of the following contingency measures will be adopted and implemented upon a primary triggering event:

- NOx Reasonably Available Control Technology on stationary sources not subject to existing requirements;
- Implementation of diesel retrofit programs, including incentives for performing retrofits for fleet vehicle operations;
- Alternative fuel programs for fleet vehicle operations;
- Gas can and lawnmower replacement programs;
- Voluntary engine idle reductions programs;
- SC DHEC's *Take a Break from Exhaust* program; and,
- Other measures deemed appropriate at the time as a result of advances in control technologies.

EPA has concluded that the maintenance plan adequately addresses the five basic components of a maintenance plan: the attainment emissions inventory, maintenance

²⁸ If SC DHEC determines that a longer schedule is required to implement specific contingency measures, then, upon selection of the appropriate measures, SC DHEC will notify EPA of the proposed schedule and provide sufficient information to demonstrate that the proposed measures are a prompt correction of the triggering event. Any extension would be subject to EPA's approval of the SIP revision containing the required contingency measure.

demonstration, monitoring, verification of continued attainment, and a contingency plan.

Therefore, the maintenance plan SIP revision submitted by South Carolina for the State's portion of the Area meets the requirements of section 175A of the CAA and is approvable.

VI. What is EPA's Analysis of South Carolina's Proposed NO_x and VOC MVEBs for the York County Area?

Under section 176(c) of the CAA, new transportation plans, programs, and projects, such as the construction of new highways, must "conform" to (i.e., be consistent with) the part of the state's air quality plan that addresses pollution from cars and trucks. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS or any interim milestones. If a transportation plan does not conform, most new projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of such transportation activities to a SIP. The regional emissions analysis is one, but not the only, requirement for implementing transportation conformity. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS but have since been redesignated to attainment with an approved maintenance plan for that NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans for nonattainment areas. These control strategy SIPs (including RFP and attainment demonstration requirements) and maintenance plans create MVEBs for criteria

pollutants and/or their precursors to address pollution from cars and trucks. Per 40 CFR part 93, a MVEB must be established for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. *See* 40 CFR 93.101. The MVEB serves as a ceiling on emissions from an area’s planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB.

As part of the interagency consultation process on setting MVEBs, SC DHEC held conference calls with the Rock Hill Fort Mill Area Transportation Study (RFATS) Metropolitan Planning Organization (MPO) to determine what years to set MVEBs for the Area. According to the transportation conformity rule, a maintenance plan must establish MVEBs for the last year of the maintenance plan (in this case, 2026). *See* 40 CFR 93.118. The consensus formed during the interagency consultation process was that another MVEB should be set for the York County, SC maintenance plan base year of 2014.

Accordingly, SC DHEC established MVEBs based on the latest MPO jurisdictional boundaries such that MVEBs are established for that portion of York County which is within the RFATS MPO as part of the bi-state Charlotte Area. Table 11, below, provides the NO_x and VOC MVEBs in kilograms per day (kg/day),²⁹ for 2014 and 2026.

Table 11. York County Area MVEBs (kg/day)

²⁹ The conversion to kilograms used the actual emissions reported in the MOVES model. The conversion was done utilizing the “CONVERT” function in an EXCEL spreadsheet. The conversion factor is 907.1847.

	2014		2026	
	NOx	VOC	NOx	VOC
Base Emissions	9,112	3,566	3,076	1,576
Safety Margin Allocated to MVEB	-	-	6,922	1,379
Conformity MVEB	9,112	3,566	9,998	2,955

As mentioned above, South Carolina has chosen to allocate a portion of the available safety margin to the NOx and VOC MVEBs for 2026 for the York County Area.

Through this rulemaking, EPA is proposing to approve the MVEBs for NOx and VOC for 2014 and 2026 for the York County Area because EPA believes that the Area maintains the 2008 8-hour ozone NAAQS with the emissions at the levels of the budgets. Once the MVEBs for the York County Area are approved or found adequate (whichever is completed first), they must be used for future conformity determinations. After thorough review, EPA has preliminary determined that the budgets meet the adequacy criteria, as outlined in 40 CFR 93.118(e)(4), and is proposing to approve the budgets because they are consistent with maintenance of the 2008 8-hour ozone NAAQS through 2026.

VII. What is the Status of EPA’s Adequacy Determination for the Proposed NOx and VOC MVEBs for 2014 and 2026 for the York County Area?

When reviewing submitted “control strategy” SIPs or maintenance plans containing MVEBs, EPA may affirmatively find the MVEB contained therein adequate for use in determining transportation conformity. Once EPA affirmatively finds the submitted MVEB is adequate for transportation conformity purposes, that MVEB must be used by state and Federal

agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the CAA.

EPA's substantive criteria for determining adequacy of a MVEB are set out in 40 CFR 93.118(e)(4). The process for determining adequacy consists of three basic steps: public notification of a SIP submission, a public comment period, and EPA's adequacy determination. This process for determining the adequacy of submitted MVEBs for transportation conformity purposes was initially outlined in EPA's May 14, 1999, guidance, "Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision." EPA adopted regulations to codify the adequacy process in the Transportation Conformity Rule Amendments for the "New 8-Hour Ozone and PM_{2.5} National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments - Response to Court Decision and Additional Rule Change," on July 1, 2004 (69 FR 40004). Additional information on the adequacy process for transportation conformity purposes is available in the proposed rule entitled, "Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes," 68 FR 38974, 38984 (June 30, 2003).

As discussed earlier, South Carolina's April 17, 2015, maintenance plan includes NO_x and VOC MVEBs for the York County Area for 2014, an interim year of the maintenance plan, and 2026, the last year of the maintenance plan. EPA is reviewing the NO_x and VOC s MVEBs through the adequacy process. The York County Area NO_x and VOC MVEBs, opened for public comment on EPA's adequacy Web site on May 14, 2015, found at:

<http://www.epa.gov/otaq/stateresources/transconf/currrips.htm>. The EPA public comment period on adequacy for the MVEBs for 2014 and 2026 for the York County Area closed on June

15, 2015. No comments, adverse or otherwise, were received during EPA's adequacy process for the MVEBs associated with South Carolina's maintenance plan.

EPA intends to make its determination on the adequacy of the 2014 and 2026 MVEBs for the York County Area for transportation conformity purposes in the near future by completing the adequacy process that was started on May 14, 2015. After EPA finds the 2014 and 2026 MVEBs adequate or approves them, the new MVEBs for NO_x and VOC must be used for future transportation conformity determinations. For required regional emissions analysis years that involve 2014 through 2026, the applicable 2014 MVEBs will be used and for 2026 and beyond, the applicable budgets will be the new 2026 MVEBs established in the maintenance plan, as defined in section VI of this proposed rulemaking.

VIII. What is the Effect of EPA's Proposed Actions?

EPA's proposed actions establish the basis upon which EPA may take final action on the issues being proposed for approval today. Approval of South Carolina's redesignation request would change the legal designation of the portion of York County within the South Carolina portion of the bi-state Charlotte Area, as found at 40 CFR part 81, from nonattainment to attainment for the 2008 8-hour ozone NAAQS. Approval of South Carolina's associated SIP revision would also incorporate a plan for maintaining the 2008 8-hour ozone NAAQS in the Area through 2026 into the SIP. This maintenance plan includes contingency measures to remedy any future violations of the 2008 8-hour ozone NAAQS and procedures for evaluation of potential violations. The maintenance plan also establishes NO_x and VOC MVEBs for 2014 and 2026 for the York County Area. The MVEBs are listed in Table 11 in Section VI. Additionally, EPA is notifying the public of the status of EPA's adequacy determination for the newly-

established NO_x and VOC MVEBs for 2014 and 2026 for the York County Area.

IX. Proposed Actions.

EPA is taking three separate but related actions regarding the redesignation and maintenance of the 2008 8-hour ozone NAAQS for the South Carolina portion of the Area. EPA is proposing to determine that the entire bi-state Charlotte Area is continuing to attain the 2008 8-hour ozone NAAQS. EPA is also proposing to approve the maintenance plan for the South Carolina portion of the Area, including the NO_x and VOC MVEBs for 2014 and 2026, into the South Carolina SIP (under CAA section 175A). The maintenance plan demonstrates that the Area will continue to maintain the 2008 8-hour ozone NAAQS and that the budgets meet all of the adequacy criteria contained in 40 CFR 93.118(e)(4) and (5). Further, as part of this action, EPA is describing the status of its adequacy determination for the NO_x and VOC MVEBs for 2014 and 2026 in accordance with 40 CFR 93.118(f)(1). Within 24 months from the publication date of EPA's final rule for this action, the transportation partners will need to demonstrate conformity to the new NO_x and VOC MVEBs pursuant to 40 CFR 93.104(e)(3).

Additionally, EPA is proposing to determine that the South Carolina portion of the bi-state Charlotte Area has met the criteria under CAA section 107(d)(3)(E) for redesignation from nonattainment to attainment for the 2008 8-hour ozone NAAQS. On this basis, EPA is proposing to approve South Carolina's redesignation request for the South Carolina portion of the Area. If finalized, approval of the redesignation request would change the official designation of that portion of York County that is included in the bi-state Charlotte Area, as found at 40 CFR part 81, from nonattainment to attainment for the 2008 8-hour ozone NAAQS.

X. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these proposed actions merely propose to approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For this reason, these proposed actions:

- are not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action for the state of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). The Catawba Indian Nation Reservation is located within the State of South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27-16-120, “all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.” However, because no tribal lands are located within the South Carolina portion of the Area, this action is not approving any specific

state requirement into the SIP that would apply to Tribal lands. Therefore, EPA has determined that this proposed rule does not have substantial direct effects on an Indian Tribe. EPA notes today's action will not impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: October 1, 2015.

Heather McTeer Toney,
Regional Administrator,
Region 4.

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